

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARATHON ASSET MANAGEMENT, LP,

Plaintiff,

-v-

WILMINGTON TRUST, N.A., as
Administrative and Collateral Agent,

Defendant,

ANGELO GORDON & CO., LP, APOLLO
ADVISORS VII, L.P., BROOKFIELD ASSET
MANAGEMENT PRIVATE
INSTITUTIONAL CAPITAL ADVISER
(CANADA), L.P.,

Intervenor Defendants

Case No. 15-cv-04727 (AT)(AJP)

**DECLARATION OF GEORGE W. SHUSTER, JR. IN FURTHER SUPPORT OF
PLAINTIFF'S MOTION TO REMAND AND FOR ABSTENTION
AND IN OPPOSITION TO MOTION TO TRANSFER VENUE**

I, George W. Shuster, Jr., declare under penalty of perjury and 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge, information, and belief:

1. I am a partner with the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, 7 World Trade Center, 250 Greenwich Street, New York, New York 10007, counsel for the plaintiff in the above-captioned action, Marathon Asset Management, LP, on behalf of one or more managed funds and/or accounts. I respectfully submit this Declaration in Further Support of Plaintiff's Motion to Remand and for Abstention and in Opposition to Motion to Transfer Venue.

2. Exhibit A is a true and correct copy of the Debtors' Statement Regarding Plan Negotiations, filed July 23, 2015, in the case captioned *In re Energy Future Holdings Corp., et al.*, 14-10979 (CSS), in the U.S. Bankruptcy Court for the District of Delaware.

Dated: New York, New York
July 29, 2015

/s/ George W. Shuster, Jr.
George W. Shuster, Jr.

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ENERGY FUTURE HOLDINGS CORP., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 14-10979 (CSS)
)
) (Jointly Administered)
)

DEBTORS' STATEMENT REGARDING PLAN NEGOTIATIONS

Energy Future Holdings Corp. ("EFH Corp."), Energy Future Intermediate Holding Company LLC ("EFIH"), Texas Competitive Electric Holdings Company LLC ("TCEH"), and the other above-captioned debtors and debtors in possession (collectively with EFH Corp., EFIH, and TCEH, the "Debtors") file this statement in connection with the filing of the *Amended Joint Plan of Reorganization of Energy Future Holdings Corp., et al., Pursuant to Chapter 11 of the Bankruptcy Code*, filed substantially contemporaneously herewith.

1. The Debtors filed today a revised plan of reorganization and accompanying disclosure statement that reflects two potential paths to emergence: (1) a transaction under which \$12.1 billion of new debt and equity arranged by the ad hoc group of TCEH unsecured noteholders and Hunt Consolidated, Inc. (the "TCEH Unsecured/Hunt Consortium"), including a fully backstopped \$5.1 billion rights offering to the unsecured creditors of TCEH and its subsidiaries, would be used to pay all allowed claims against EFH Corp. and EFIH in cash in full and EFH Corp. would be converted into a real estate investment trust (the "REIT Transaction")

¹ The last four digits of Energy Future Holdings Corp.'s tax identification number are 8810. The location of the debtors' service address is 1601 Bryan Street, Dallas, Texas 75201. Due to the large number of debtors in these chapter 11 cases, which are being jointly administered, a complete list of the debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the debtors' claims and noticing agent at <http://www.efhcaseinfo.com>.

and (2) a standalone plan pursuant to which the creditors of EFH Corp. and EFIH would convert their debt into equity of reorganized EFH Corp. (the “Standalone Transaction” and together with the REIT Transaction, the “Transactions”). TCEH would be spun off through a tax-free transaction to the TCEH first lien lenders under either of the Transactions. Subject to the resolution of certain critical issues, which the Debtors believe can be resolved, the Debtors view the REIT Transaction as the superior path to exit because it would resolve the vast majority of contested issues in this case, has the support of substantially all of the creditors of the TCEH Debtors, and, if consummated, will pay all creditors of EFH Corp. and EFIH in full in cash.

2. Since the last hearing, the TCEH Unsecured/Hunt Consortium, the TCEH first lien creditors, the TCEH creditors’ committee, and the Debtors have made tremendous progress in negotiations on the terms of the REIT Transaction. As a result of this progress, the REIT Transaction is in a more advanced state than the Standalone Transaction. The negotiations regarding both Transactions, however, are still ongoing.

3. In order to comply with the recently Court-approved confirmation schedule, which contemplates a confirmation hearing as early as October, the Debtors have elected to file an amended plan of reorganization today. To preserve their options, the Debtors determined to file a plan and disclosure statement that contains both Transactions. However, the Debtors’ are currently working to reach rapid closure on the open issues regarding the REIT Transaction and, upon doing so, would amend the plan to delete all references to the Standalone Transaction. Of course, in the event that the negotiations regarding the REIT Transaction reach an impasse, then the Debtors reserve their rights to pursue the Standalone Transaction and the creditors of the TCEH Debtors have informed the Debtors that they reserve all of their rights as well.

Dated: July 23, 2015
Wilmington, Delaware

/s/ Jason M. Madron

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-and-

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